

Department of Planning and Zoning

149 Church Street
Burlington, VT 05401
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Ken Lerner, Assistant Director
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Jay Appleton, GIS Manager
Scott Gustin, AICP, Senior Planner
Mary O'Neil, AICP, Senior Planner
Nic Anderson, Zoning Clerk
Elsie Tillotson, Department Secretary



TO: Development Review Board
FROM: Ken Lerner *[Signature]*
DATE: November 18, 2014
RE: Appeal of Zoning Permit 15-0422FC; 188-190 North Union Street

Note: These are staff comments only; decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

Zone: RL Ward: 1
Owner/Appellants: Kimberly & Eric Hathaway / Arnold King

Request: Appeal approval of ZP# 15-0422FC for fence.

Recommendation: Uphold determination for fence as permitted based on the following findings:

I. Findings:

A. Background

On October 7, 2014 zoning permit 15-0422FC was issued for "Installation of eight sections of wooden fencing along boundary line". The following conditions of approval were included:

1. The proposed fence shall be setback sufficiently to provide for the maintenance of both sides of the fence without entering onto the adjacent property. Sufficient access to the outside of the fence shall be provided to provide room for such access for the maintenance of the fence.
2. The proposed fence shall present a finished side to the adjoining property in accordance with Sec. 6.2.2(m) of the City of Burlington Comprehensive Development Ordinance.
3. Approval of this permit is for the fence only parallel to the southern property boundary and does not include any other site or building features; and

Standard Permit Conditions

On October 21, 2014 an appeal of this permit was filed.

B. Appeal

The appeal simply states: "Does not want fencing removed from his property & or other fence up. Chain link belong (sic) to Arnold King. Does not want it removed."

C. Response

The language in the appeal is general and does not address any standard other than claiming ownership of the existing chain link fence.

No evidence or documentation such as a survey has been presented to support the contention that fence is on the appellant's property. The fence is actually situated at the corner of a structure on the subject property.



II. Recommended Motion:

As no documentation to support the appeal has been provided it is recommended that the Board uphold the fence as approved and conditioned under Zoning Permit 15-0422FC.



Department of Planning and Zoning

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Burlington, VT 05401-8415
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www.burlingtonvt.gov/pz

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OCT 21 2014

DEPARTMENT OF
PLANNING & ZONING

Appeal of an Administrative Decision Request

Use this form to appeal any Administrative Decision or Notice of Violation - See Sec. 12.2.2 of the Zoning Ordinance.

SUBJECT LOCATION ADDRESS: 188 North Union St Burl.

Subject Property Owner: 186 North Union St Burl.

Appellant: Arnold R King

Agent/Representative: _____

Mailing Address: 186 North Union St Burl.

City, St, Zip: Burlington, VT 05401

Day Phone: 802-864-7688

Email: _____

Appellant Signature: _____

Date: 10/22/14

In order for your request to be considered complete, ALL of the following information must be provided, as applicable:

- ☒ The Appeal fee of \$250;
- ☒ Description of the decision under appeal; Fencing
- ☒ Description of the property subject to the appeal; 188-190
- ☒ Reference to the regulatory provisions applicable to the appeal; Fence Check List
- ☒ Relief requested by the appellant; Arnold King Does not fence up?
- ☒ Alleged grounds why such requested relief is believed proper under the circumstances. Does Not want Fencing up.

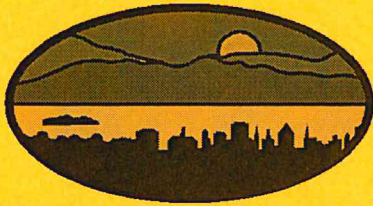
Does Not want Fencing Removed from his property & or other fence up. Chain link belong to Arnold King. Does Not want it Removed.

Office Use Only:

Check No. 2601

Amount Paid 250.-

Zoning Permit # 15-04227C



ZONING PERMIT

FENCE

City of Burlington, Vermont
Department of Planning and Zoning

Application Date: 09/24/2014

Appeal Expiration Date: 10/22/2014

Project Location: 188-190 NORTH UNION STREET

District: RM

Owner: Eric Hathaway

Ward: 2

Address: 37 Trails End Drive
Canton, CT 06019

Tax ID: 044-3-189-000

Project Type: Residential - Site Imp/Landscaping/Parking/Fence

Project Description: Installation of eight sections of wooden fencing along boundary line.

Construction Cost:	\$500	Lot Size (Sq Ft):	4,695
Net New Habitable Sq Ft:	0.00	Net New # of Housing Units:	0
Existing % Lot Coverage:	0.00	Existing # of Parking Spaces:	0
Proposed % Lot Coverage:	0.00	Proposed # of Parking Spaces:	0
Net New % Lot Coverage:	0.00	Required # of Parking Spaces:	0

Zoning Permit #: 15-0422FC

Decision By: Administrative

Level of Review: 1

Decision: Approved

See Conditions of Approval

Decision Date: October 7, 2014

Project File: NA

Zoning Administrative Officer

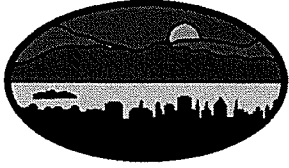
An interested person may appeal a decision of the Zoning Administrator to the Development Review Board until 4 pm on October 22, 2014.

Fee Type	Amount	Paid in Full	Balance Due: \$0.00
Application Fee:	\$50.00	Yes	Date Paid: _____
Development Review Fee:	\$0.00	NA	Check # _____
Impact Fee:	Not Applicable		

Building Permit Required: **Yes**

Permit Received by: _____

Date: _____



City of
Burlington, Vermont
149 Church Street

Zoning Permit - Fences – Conditions of Approval

ZP #: 15-0422FC

Tax ID: 044-3-189-000

Issue Date: October 7, 2014

Decision: Approved

Property Address: 188-190 NORTH UNION STREET

Description: Installation of eight sections of wooden fencing along boundary line.

Project Permit Conditions:

1. The proposed fence shall be setback sufficiently to provide for the maintenance of both sides of the fence without entering onto the adjacent property. Sufficient access to the outside of the fence shall be provided to provide room for such access for the maintenance of the fence.
2. The proposed fence shall present a finished side to the adjoining property in accordance with Sec. 6.2.2(m) of the City of Burlington Comprehensive Development Ordinance.
3. Approval of this permit is for the fence only parallel to the southern property boundary and does not include any other site or building features.

Standard Permit Conditions:

1. **Other City, State or Federal Permits.** The owner is solely responsible for obtaining all other required City, state and federal approvals. Failure to do so may invalidate this Zoning Permit and result in enforcement actions.

Note: All projects receiving a Zoning Permit also require a Construction Permit or written confirmation that a Construction Permit is not required from Department of Public Works-Inspection Services Division (DPW-ISD). All construction permits must be closed out by way of approved inspections by DPW-ISD before issuance of a Unified Certificate of Occupancy (UCO) by the Code Enforcement Office as per Condition 3, below.

2. **Time Limits.** This zoning permit shall become invalid unless work or action authorized by the permit is commenced by **October 7, 2015**. The owner shall complete the approved project and obtain a UCO (combined Zoning and Building certificates of occupancy, still applicable even if a zoning or building permit was not required) by **October 7, 2016**, or be subject to enforcement actions.

These time limits are binding upon the owner unless one of the following apply: a) longer or shorter time limits are specifically imposed by a condition of approval; or b) the time limits are tolled by additional state or federal permitting for the project or by an appeal; or c) an extension of time has been granted. An extension of time must be requested in writing PRIOR to the expiration of the permit. If the owner has enacted the permit and it lapses, the owner may be responsible to obtain a new zoning permit, if required, which shall be subject to the current Comprehensive Development Ordinance (CDO).

3. **Unified Certificate of Occupancy (UCO):** It shall be unlawful to use or occupy (or allow the use

or occupancy of) any land or structure or part thereof which has been created, changed, converted, or wholly or partly altered or enlarged in its use or structure without a UCO.

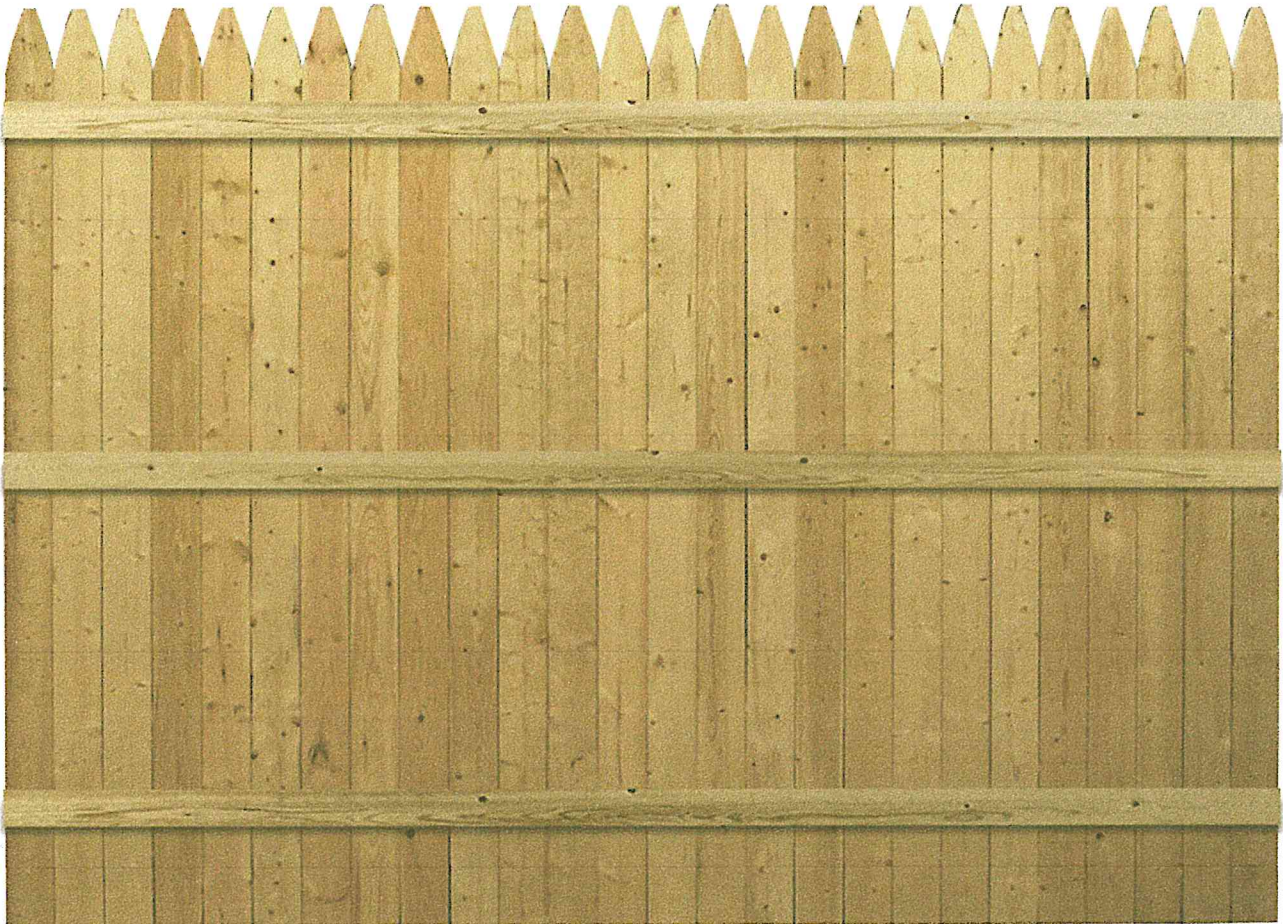
If the project is partially completed, meets "prior to issuance of a UCO" conditions of approval, meets all health and safety standards, and all municipal fees for the project are paid, a Temporary Zoning CO may be requested and issued. **Upon completion of the project**, applicant shall request and obtain a Final UCO from the Code Enforcement Office (located at 645 Pine Street). Additional information on how to request and obtain this UCO is available at this office. **Failure to obtain a certificate of occupancy** places the property in violation of the CDO and is subject to enforcement.

In addition, **Failure to obtain a UCO within the time limits above is subject to** "after the fact" fees ranging from \$75 - \$1500 (in addition to the UCO fee).

4. **Project Modifications.** The project shall be completed as shown on the plans, which have been stamped "approved" and dated by the administrative officer. The project shall not deviate from the approved plans or conditions of approval without prior written approval from the administrative officer.
5. **Property Inspection.** By acceptance of this permit, the owner authorizes City Officials and/or their authorized representatives, access to the subject property for the purpose of observing work in progress, inspecting and/or measuring the property or improvements until such time the project has been issued a Final UCO.
6. **Completion and Maintenance of Improvements and Landscaping.** Owner or successor in interest is responsible for completing all improvements shown on approved plans. By acceptance of this permit, Owner agrees to maintain all improvements in a satisfactory condition. Any landscaping installed according to the approved plan which becomes diseased or dies shall be replaced by similar species and size no later than the first available planting season.
7. **Off-Site Drainage.** Issuance of this permit does not authorize the discharge of stormwater runoff or other surface drainage from the subject premises onto adjoining property or properties including but not limited to the public Right of Way.
8. **Errors.** The owner is solely responsible for the accuracy of all information contained in the Zoning Permit application. Any errors contained therein may invalidate the Zoning Permit and may result in enforcement action by the City.
9. **Transfer of Ownership. All zoning permits run with the land.** In the event of a transfer of ownership, partial or whole, of the subject premises, the transferee shall become permittee and subject to compliance with the terms and conditions of this permit.
10. **Violations/Penalties.** A violation of any of the conditions of this permit or of any provision of the CDO may result in enforcement actions, including but not limited to a penalty of up to two hundred dollars (\$200) per day, municipal tickets, and/or additional permitting fees.
11. **Incorporation and Reference of All Plans Presented.** This approval incorporates by reference all plans and drawings presented and all verbal representations by the applicant on the subject application to the extent that they are not in conflict with other stated conditions or regulations.
12. **For Properties Involved in Boundary Disputes.** Boundary disputes are not within the jurisdiction of the administrative officer or the Development Review Board. When an application is submitted and the boundary of the subject property is called into question, the boundary will be determined

based upon the best evidence available, for instance a survey or other official document. If a permit is issued and contrary evidence is presented to the City after the fact, such as a survey or Superior Court ruling with respect to the boundary lines, the permit may be amended or revoked by the City. If the permit is amended or revoked, owner shall bear all costs to remedy the situation, including removal of the structure(s) if necessary, that is if the structure(s) is/are unable to meet the requirements of the CDO and receive an amended permit in light of the actual boundary line.

13. **Damage to City Property.** The Owner is responsible for any damage to the City of Burlington's property, including but not limited to its right-of-way, sewer/water lines, etcetera, that occurs during the site improvements authorized by this permit. If damage occurs, the Owner shall restore the property to a condition equal to or better than the condition of the property prior to such damage.
14. **City Rights-of-Way and Ownership.** Permit approval does NOT authorize any work to be undertaken within the public ROW. Any work in the ROW can only occur with prior authorization by DPW and City Council, as required. Any work or improvements that are taken within the City's right of way does not diminish the City's ownership or authority regarding said right of way.
15. **Liquor License Required.** An approval of any use that includes the sale of alcoholic beverages is contingent upon the receipt of a liquor license from the City of Burlington or the State of Vermont, whichever is applicable.



Wood
6' height
8' width

New
Fence

— NOTE —

RECEIVED
SEP 23 2014

ANY MODIFICATIONS OR DEVIATIONS FROM THESE PLANS
REQUIRE ZONING APPROVAL PRIOR TO CONSTRUCTION.
ALL ERRORS IN DIMENSIONS, PLANS OR DETAILING ARE
FULLY THE RESPONSIBILITY OF THE APPLICANT/OWNER.

DEPARTMENT OF
PLANNING & ZONING

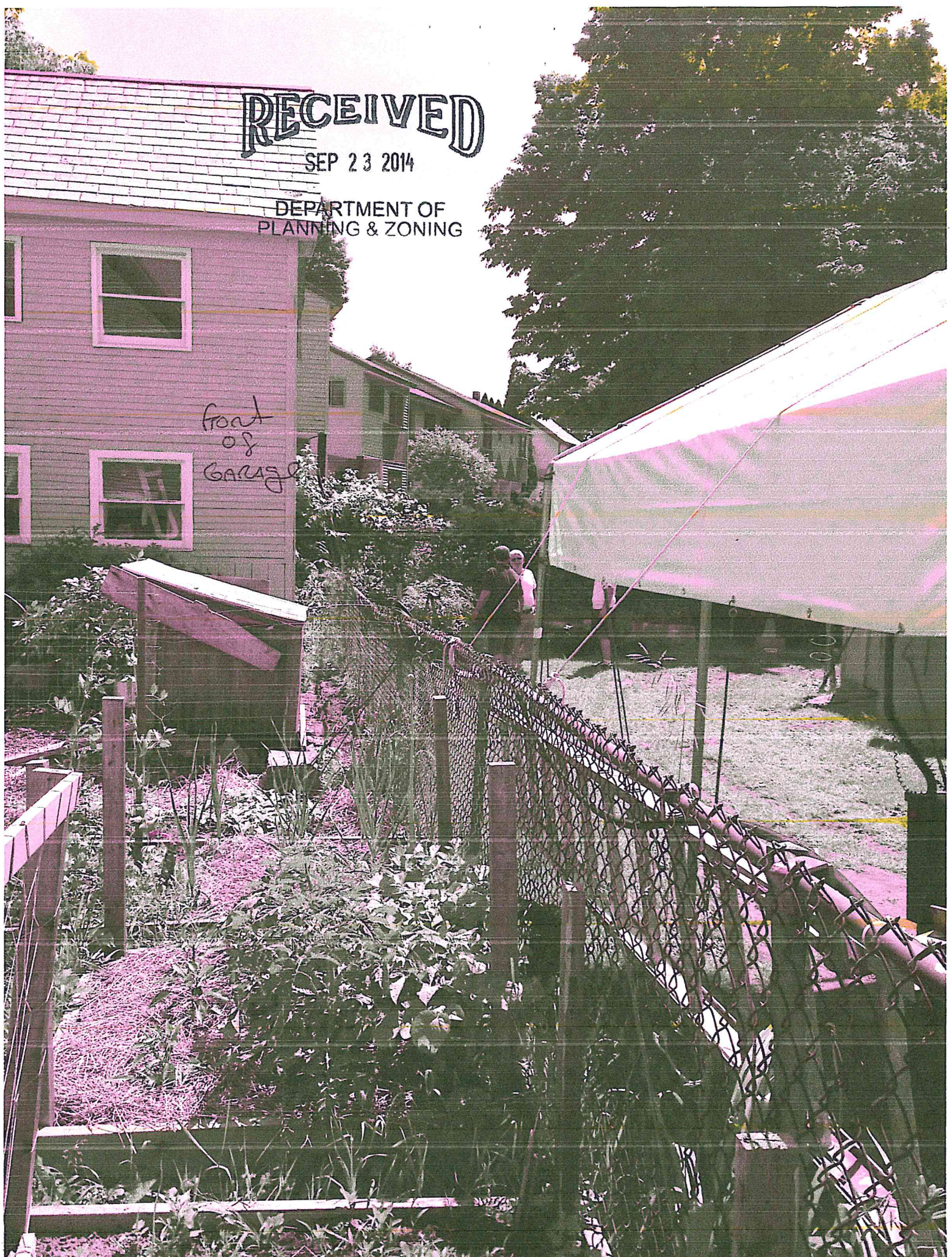
FINAL APPROVAL
SIGNED [Signature] DATE 10/7/14
PLANNING & ZONING DEPARTMENT
BURLINGTON, VERMONT

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SEP 23 2014

DEPARTMENT OF
PLANNING & ZONING

front
of
garage



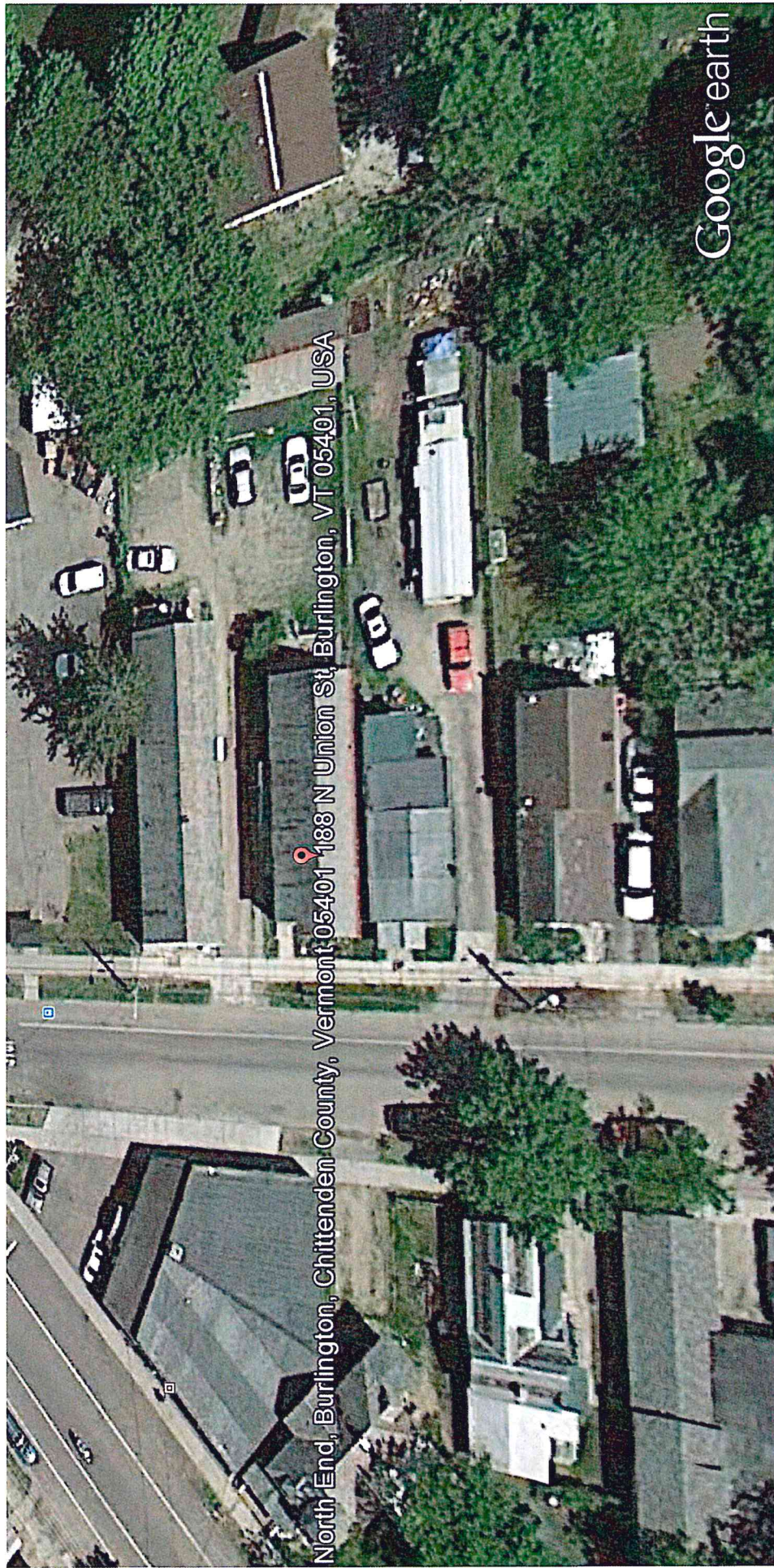
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SEP 23 2014

DEPARTMENT OF
PLANNING & ZONING

Back
of
House





North End, Burlington, Chittenden County, Vermont 05401 188 N Union St, Burlington, VT 05401, USA

Google earth

Google earth

feet
meters

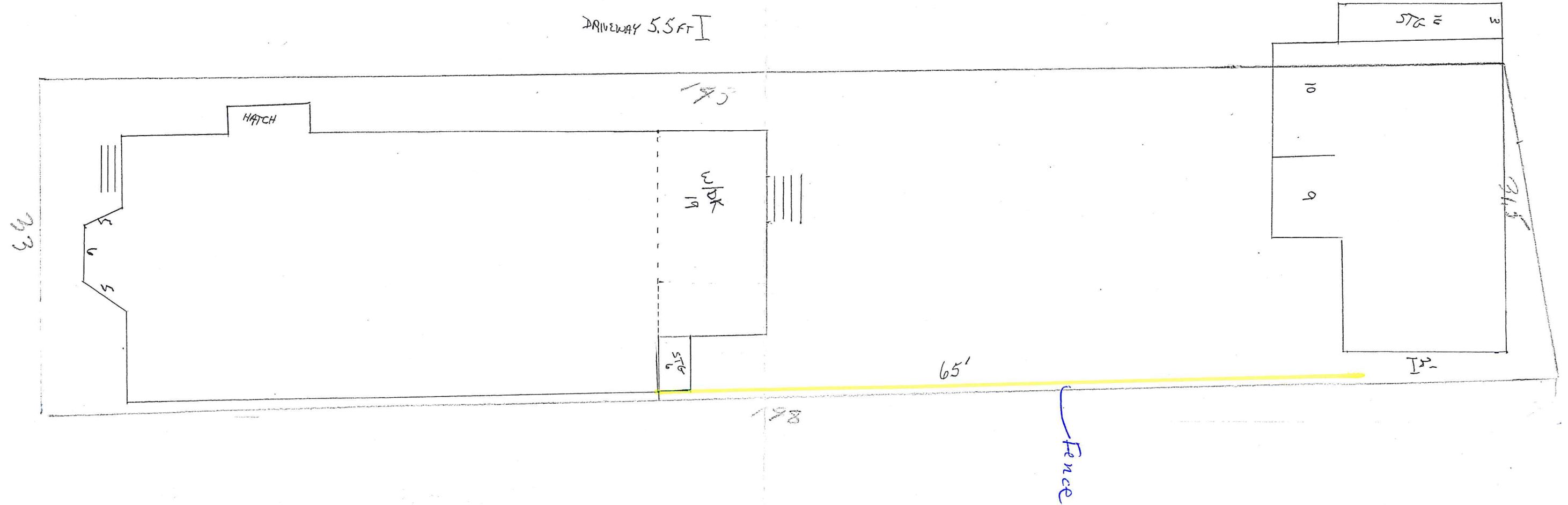
100

50



188-190 North Union

1" = 10'
N



NOTE

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REQUIRE ZONING APPROVAL PRIOR TO CONSTRUCTION.
ALL ERRORS IN DIMENSIONS, PLANS OR DETAILING ARE
FULLY THE RESPONSIBILITY OF THE APPLICANT/OWNER.

SIGNED [Signature] **FINAL APPROVAL - FOR FENCE**
DATE 10/7/14 **ONLY AS PER**
Z.P. 15-0422 RE
PLANNING & ZONING DEPARTMENT
BURLINGTON, VERMONT

DEPARTMENT OF
PLANNING & ZONING

OCT 03 2014
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